IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 5131 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE
and
Hon'ble MR.JUSTICE J.R.VORA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

VITHALBHAI CHUNILAL MALI

Versus

NABIBBHAI FAKIRBHAI PATHAN

Appearance:

MR MTM HAKIM for Petitioners

NOTICE UNSERVED for Respondent No. 1

MR PV NANAVATI for Respondent No. 3

CORAM : MR.JUSTICE A.R.DAVE
and
MR.JUSTICE J.R.VORA

Date of decision: 12/04/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE A.R.DAVE)

Though served, nobody appears for respondents Nos. 1 and 2. Respondent No. 1 is the driver of the vehicle involved in the accident whereas respondent No. 2 is the owner. Learned Advocate Shri Hakim appearing for the appellants seeks permission to delete respondents Nos. 1 and 2. Permission for deletion is granted. Respondents Nos. 1 and 2 are deleted from the proceedings.

2. Learned Advocate Shri Hakim has submitted that during the pendency of this appeal, appellant No. 2 has expired. In the circumstances, the appeal survives so far as appellant No. 1 is concerned.

3. This appeal arises out of the award dated 1.7.97 passed by M.A.C.T. (Auxi.), Vadodara, in M.A.C.P. No. 1600/92.

4. The facts giving rise to the present appeal, in a nutshell, are as under :

5. On 11th April 1992 a girl named Meena, aged 6 years, met with an accident with an autorikshaw bearing Regn. No. GQB 1592. As a result of the accident, the minor girl expired and, therefore, parents of deceased Meena filed MACP No. 1600/92 before MACT (Auxi.), Vadodara. The appellants-claimants in the aforesaid claim petition had claimed a sum of Rs. 1,25,000/- by ay of compensation. After hearing the concerned advocates and upon perusal of the evidence, the Tribunal was pleased to award compensation of Rs. 50,000/with interest at the rate of 12% thereon from the date of filing of the application till the deposit of the same amount. Being aggrieved by the said award, the appellants-claimants have approached this Court by way of this First Appeal.

6. In this appeal it has been prayed that a further sum of Rs. 75,000/- should be paid by way of compensation by the respondent insurance company. We are glad to note that the parties to the litigation had tried to compromise and, ultimately, on account of intervention of the learned advocates, they have agreed that an additional sum of Rs. 25,000/- should be paid to the appellants by way of compensation by the respondent insurance company. Learned Advocate Shri Hakim has fairly submitted that, though the claimants might be entitled to a little more amount, they are satisfied with a sum of Rs. 25,000/-, which is being offered to them by

the insurance company.

7. Now, the only question which remains is with regard to interest. Learned advocate Shri Vibhuti Nanavaty appearing for the insurance company has submitted that interest at the rate of 6% should be awarded on the additional amount of compensation from the date of the application till the deposit of the said amount with the Tribunal.

8. On the other hand, learned advocate Shri Hakim has submitted that even while making the award, the Tribunal had awarded 12% interest and, therefore, interest @ 12% should be awarded on the additional compensation of Rs. 25,000/-.

9. We have heard the learned advocates and looking to the fact that the parties have amicably resolved their disputes, we direct that interest @ 9% be paid on the amount of additional compensation to be awarded to the claimants.

10. In the result, we direct that the award should be modified and in all a sum of Rs. 75,000/- should be given by way of compensation to the appellants, original claimants. We do not intend to make any change with regard to the rate of interest which was awarded by the Tribunal on the amount of compensation of Rs. 50,000/-, but so far as the additional amount of Rs. 25,000/- is concerned, the respondent insurance company shall pay interest @ 9% on the said amount from the date of the application till the date of deposit of the amount. The award shall be modified accordingly.

11. We hope that the amount of additional compensation along with interest thereon shall be deposited by the insurance company within six weeks from today.

As appellant No. 2 has already expired, the entire amount of compensation shall be given to appellant No. 1 by an account payee cheque.

The appeal is disposed of as allowed with no order as to costs.

(A.R. Dave, J.)

(J.R. Vora, J.)

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